

**DEPARTMENT OF THE TREASURY
FEDERAL LAW ENFORCEMENT TRAINING CENTER
GLYNCO, GEORGIA 31524**

FLETC DIRECTIVE (FD)

NUMBER: 64-30.A

Subject:

DATE: 01/19/84

Sunset Review:

**ACTIONS BASED ON UNACCEPTABLE
PERFORMANCE**

1. PURPOSE. This directive establishes procedures for taking actions based on unacceptable performance.
2. SCOPE. This directive applies to all Center employees in the competitive service who have completed one year of current continuous employment under other than a temporary appointment limited to one year or less; employees in the excepted service who have completed one year of current continuous service in same or similar positions; and Schedule B employees who brought competitive status to their positions. This coverage includes bargaining unit employees for those matters not covered by negotiated procedures. This directive does not cover employees in the Senior Executive Service or employees in the competitive service who are serving a probationary or trail period under an initial appointment.
3. CANCELLATION. FLETC Directive No. 67-52.A, Actions Based on Unacceptable Performance, date 12-16-83.
4. REFERENCES.
 - a. Treasury Personnel Management Manual, Chapter 432
 - b. Federal Personnel Manual, Chapter 752
 - c. Federal Personnel Manual, Chapter 711
 - d. FLETC Directive No. 64-30, Performance Evaluation
 - e. FLETC Directive No. 65-40, Merit Pay/Performance System
 - f. FLETC Directive No. 67-52, Adverse Actions
 - g. FLETC Directive No. 67-71, FLETC Grievance System
5. DEFINITIONS. As used in this directive, the following definitions shall apply:
 - a. Unacceptable Performance. Performance of an employee which fails to meet the established performance standards in one or more critical elements of the position.

b. Days. Day means calendar days unless specifically expressed as workdays.

c. Critical Element. A component of an employee's job that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial of a within grade increase, and may be the basis for removing or reducing the grade level of that employee.

d. Opportunity to demonstrate acceptable performance. An opportunity for the employee to show that he or she can meet established performance standards for the critical elements for the job.

e. Reduction In Grade. The involuntary assignment of an employee to a position at a lower classification or job grade level.

f. Removal. The involuntary separation of an employee from employment except when taken as a reduction in force.

g. Proposing Official. An official who is the affected employees's supervisor or another official designated by the Center, provided that official has knowledge of the employee's performance and is at a higher administrative level than the employee.

h. Deciding Official. An official who is administratively superior to the proposing official and who has sufficient authority to make the final decision on the proposed action.

6. POLICY. It is the policy of the Center that no removal, reduction-in-grade, or other action under the provision of Chapter 43, Title 5, United States Code, shall be taken against an employee except for reason(s) of unacceptable performance.

7. RESPONSIBILITIES.

a. The personnel Division is responsible for the development and implementation of procedures for taking actions for unacceptable performance; providing managers and supervisors with assistance in carrying out their responsibilities under this directive; and advising employees of their rights.

b. Supervisor and Managers are responsible for keeping employees informed of the established performance standards for each critical element; monitoring the performance and when performance is below par providing counseling, training and closer supervision to help them achieve acceptable performance; and tacking appropriate actions for unacceptable performance.

c. Employees are expected to meet the established performance standards in all critical elements of the position. Failure to do so may result in reassignment, reduction in grade, or removal.

8. TIMING OF ACTIONS. An employee may be reassigned, reduced in grade or removed at any time during the performance appraisal cycle that the employee's performance in one or more critical elements of the position becomes unacceptable. The supervisor must identify for the employee the critical element(s) for which performance is unacceptable and give the employee an opportunity of not less than 30 days to demonstrate acceptable performance before proposing an action based on unacceptable performance. If the employee does not improve his/her performance to an acceptable level within the designated period, the employee may be reduced in grade or removed with an advance notice of 30 days. Actions based on unacceptable performance can be taken only for instances occurring within a one year period. An employee may be reassigned with an advance notice of five days.

9. PROCEDURES.

a. In instances where reduction in grade or removal actions are contemplated, the proposing official must give the employee a 30-day advance written notice which identifies:

- (1) the specific instances of unacceptable performance by the employee on which the proposed action is based;
- (2) the critical element(s) of the employees's position involved in each instance of unacceptable performance; and
- (3) the specific number of calendar days, but not less than seven, allowed for reply;
- (4) the employee's right to review the material which was relied on to support the reasons for the proposed action; and
- (5) the employee's right to a reasonable amount of official time to prepare/present a reply.

b. The person designated as the deciding official will receive the employee's written or oral reply. If the employee replies orally, a written summary of the oral reply will be prepared by the official and shall become part of the record.

c. Employees are entitled to submit affidavits and other pertinent documents with the written and/or oral reply and shall have consideration given to any such documentation offered.

d. An employee is entitled to be represented by an attorney or other representative of his/her choice. A representative may be disallowed if there is a conflict of interest or position, unreasonable costs to the Government, or if priority work assignments preclude his/ her release. The procedures for disallowance of a representative are contained in FLETC Directive No. 67-71.

e. The decision to retain, reduce in grade or remove an employee shall be made by the deciding official within 30-days after the date of expiration of the 30-day notice period. The decision will be written and will include the appropriate appeal, grievance, or complaint rights available to the employee and the time limits and procedures for exercising those rights.

f. If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for one year from the date of the advance written notice, any entry or other notation of unacceptable performance for which the action was proposed under Part 432, Code of Federal Regulations, will be removed from any record relating to the employee.

10. RECORD. The Personnel Officer will preserve all relevant documentation concerning a reduction in grade or a removal which is based on unacceptable performance and make it available for review by the affected employee or his/her representative. As a minimum, the records shall consist of a copy of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

11. AVAILABILITY FOR INSPECTION. Copies of the Federal Personnel Manual, Chapter 432, and the Treasury Personnel Management Manual (TPMM), Chapter 432, are available in the Personnel Division on a continuing basis to employees and/or representatives. Any information contained therein not specifically addressed in this directive is applicable.

12. OFFICE OF PRIMARY INTEREST. Personnel Division, Office of Resource Management.

Charles F. Rinkevich
Director